

b.) Remarks

Claim 1 has been amended in order to recite features of claim 2.

Accordingly, claim 2 has been cancelled as superfluous and claim 4 amended in order to maintain its dependency. Additionally, claims 6 and 8 are amended for better idiomatic usage. Accordingly, no new matter has been added.

Claims 1, 3, 9 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by Kanzaki et al. (*Journal of Bioscience and Bioengineering*, Vol. 89 (2000) 602-05) which teaches producing a dipeptide from a diketopiperazine using a microorganism as an enzyme source. This rejection is addressed by the foregoing amendment.

Claims 1-5, 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being obvious over Kanzaki in view of Yokozeki et al. (WO2003/010189). This rejection is respectfully traversed.

According to the Examiner, Kanzaki does not teach any of (i) using *Microbacterium* microorganisms, (ii) using a diketopiperazine comprising alanine and glutamine, or (iii) using microorganisms having the ability to produce dipeptides wherein the proportion of one dipeptide is  $\geq 70\%$ . These features are said to be addressed by Yokozeki, which teaches production of alanylglutamine by *Microbacterium* and "it would further have been a matter of routine optimization to screen for microorganisms for one in which the production of the desired amino acid is high."

However, in our review, Yokozeki only teaches that member of the *Microbacterium* genus are capable of producing dipeptide alanylglutamine from L-alanine methylester and L-glutamine and not diketopiperazine. Accordingly, respectfully submitted, these references do not provide a case of *prima facie* obviousness.

Finally, claims 1-11 stand rejected as being obvious over Kanzaki and Yokozeki in further view of Takeuchi (*Int. J. System. Bact.*, Vol. 48 (1998) 739-47) which teaches *Microbacterium luteolum*. However, Takeuchi is cited only as showing the phylogeny of *Microbacterium luteolum* and does not remedy the foregoing deficiencies of Kanzaki and Yokozeki.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 1 and 3-11 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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